

Message Text

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PAGE 01 MOSCOW 15269 240258Z

65

ACTION L-03

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C O N F I D E N T I A L MOSCOW 15269

E.O. 11652 GDS

TAGS: ETRD, EEWT, UR, US

SUBJECT: U.S. ANTI-TRUST LAWS AND MARKETING RESTRICTIONS IN

U.S.-SOVIET CONTRACTS

USDOC FOR BEWT/USSR AND TDAD

DEPARTMENT ALSO FOR L/E

1. IN SEPARATE MEETINGS OCTOBER 23 WITH AMBASSADOR, PRESIDENTS OF ABBOTT LABORATORIES AND CORNING GLASS INTERNATIONAL RAISED PROBLEMS WHICH THEIR COMPANIES ANTICIPATE ARISING FROM SOVIET EXPORTS OF PRODUCTS PRODUCED IN FACILITIES WHICH BOTH COMPANIES MAY CONSTRUCT IN USSR. IN CASE OF ABBOTT, COMPANY IS CONCERNED THAT "SIMILAC" FROM PLANT WHICH ABBOTT MAY CONTRUCT IN USSR WILL FIND ITS WAY ON TO ABBOTT'S WESTERN EUROPEAN MARKETS. CORNING IS CONCERNED THAT SOVIETS MIGHT SELL PRODUCTS PRODUCED IN USSR UNDER CORNING LICENSES EITHER IN WESTERN EUROPE, EASTERN EUROPE OR US. OFFICIALS OF BOTH COMPANIES NOTED THAT IT WAS THE UNDERSTANDING OF THEIR LEGAL DEPARTMENTS THAT IT WOULD BE CONTRARY TO U.S. ANTI-TRUST LEGISLATION WERE THEY TO INCLUDE "NO EXPORT" CLAUSES IN CONTRACTS WITH SOVIETS.

2. COMMENT: EMBASSY WOULD APPRECIATE RECEIVING CLARIFICATION OF
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PAGE 02 MOSCOW 15269 240258Z

THIS MATTER. WE SEE POTENTIAL PROBLEMS FOR U.S. COMPANIES IF,

IN FACT, PROVISIONS AGAINST EXPORT OF PRODUCT WOULD BE CONSIDERED
TO BE IN VIOLATION OF U.S. LAW. EXPERIENCE OF FIAT, WHICH NOW
FINDS SOVIET-MADE "LADA" AUTOMOBILE CUTTING INTO ITS WESTERN
EUROPEAN MARKETS, HAS CAUSED AMERICAN (AND OTHER WESTERN EUROPEAN)
COMPANIES TO APPROACH TECHNOLOGY SALES TO USSR WITH GREATER CAUTION.
IN CASE OF USSR (AND POSSIBLY OTHER STATE TRADING COUNTRIES),
THIS PROBLEM IS MORE SEVERE THAN IS THE CASE WITH MARKET
ECONOMIES DUE TO FACT THAT SOVIETS CAN, AND DO, FOLLOW PRICING
POLICIES WHICH CAN GIVE THEM AN EDGE OVER WESTERN COMPETITORS.
ANTI-DUMPING REGULATIONS DO, OF COURSE, OFFER SOME PROTECTION FOR
U.S. COMPANIES, BUT DIFFICULTY IN PROVING DUMPING AND FACT THAT
THIRD-COUNTRY MARKETS ARE INVOLVED (I.E. WESTERN EUROPEAN AS WELL
AS U.S.) MAKES THIS PROTECTION SOMEWHAT DOUBTFUL.
STOESSEL

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